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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 IMPLICIT NETWORKS INC,

No. C 10-03365 SI

12 Plaintiff,

**ORDER RE PARTIES' APPLICATIONS  
TO FILE UNDER SEAL F5's HIGHLY  
CONFIDENTIAL INFORMATION**

13 v.

14 F5 NETWORKS INC,

15 Defendant.  
16 \_\_\_\_\_/

17 Currently before the Court are the following applications for leave to file under seal: (1)  
18 Stipulation for leave to file under seal portions of F5's Motion for Summary Judgment of Non-  
19 Infringement and related exhibits [Docket Nos. 140, 145]; and the parties' (2) Stipulation for Leave to  
20 File Under Seal, narrowing the scope of the information the parties request be filed under seal. [Docket  
21 Nos. 151, 155]. In the most recent filing, the parties seek to file under seal certain portions of the Storer  
22 Declaration filed in support of F5's Motion for Summary Judgment of Non-Infringement; portions of  
23 the Nettles Declaration submitted in support of Implicit's Opposition; and portions of Implicit's  
24 Opposition. The Declaration of Dave Schmitt, submitted in support of the narrowed sealing request,  
25 asserts that sealing of the information at issue is necessary because disclosure of the "source code and  
26 technical design details" for F5's products could jeopardize the security of its products and would allow  
27 competitors to copy F5's technology. Schmitt also argues that portions of the Nettles Report which  
28 describe specific products purchased by and specific services provided to named customers of F5 should

1 be sealed because disclosure would violate non-disclosure agreements and “could cause competitive  
2 harm.”

3 The Court GRANTS the application to seal with respect to the information discussing F5’s  
4 “source code and technical detail design.” However, the Court DENIES F5’s request to seal information  
5 regarding specific products purchased by and specific services provided to named customers. F5 has  
6 not shown that customers would likely suffer any specific type of damage by release of the information  
7 regarding which products they purchased (*e.g.*, that the customers could be hacked or the security of  
8 their systems be compromised). A generalized assertion that “competitive harm” could result from  
9 release of the information is not sufficient to demonstrate compelling reasons to seal that overcome the  
10 public’s right of access to court documents.

11 Therefore, the portions of documents identified by the Schmitt Declaration may be filed under  
12 seal *only* to the extent they disclose source code and technical design details of F5’s products. F5 shall  
13 ensure that the public version of the Storer Declaration and attachments e-filed in the docket redact only  
14 the information allowed by this Order.

15 Implicit shall ensure that the public versions of the following documents e-filed in the docket  
16 redact only the information allowed by this Order: Implicit’s Opposition to F5’s Motion for Summary  
17 Judgement of Non-Infringement [Docket No. 156]; the Nettles Declaration and Attachments [Docket  
18 No. 157]; and Exhibit 3 of the Hosie Declaration [Docket No. 158].<sup>1</sup>

19 **IT IS SO ORDERED.**

20  
21 Dated: November 26, 2012



22 SUSAN ILLSTON  
23 UNITED STATES DISTRICT JUDGE  
24  
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26  
27 <sup>1</sup> F5 and Mr. Schmitt fail to address whether Exhibit 3 to the Declaration of Spencer Hosie  
28 should likewise be filed under seal. *See* Docket No. 155. However, as Exhibit 3 to the Hosie  
Declaration contains deposition testimony regarding the same information F5 seeks to seal in Implicit’s  
Opposition, the Court GRANTS the request to seal the portions of Exhibit 3 that reference F5’s source  
code or technical design details.